

## §§ 1807.131–1807.139

of a program or activity with respect to individuals with disabilities.

(5) The NACIC, in the selection of procurement contractors, may not use criteria that subject qualified individuals with disabilities to discrimination on the basis of disability.

(6) The NACIC may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may the NACIC establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. However, the programs or activities of entities that are licensed or certified by the NACIC are not, themselves, covered by this part.

(c) The exclusion of persons without disabilities from the benefits of a program limited by Federal statute or Executive Order to individuals with disabilities or the exclusion of a specific class of individuals with disabilities from a program limited by Federal statute or Executive Order to a different class of individuals with disabilities is not prohibited by this part.

(d) The NACIC shall administer programs and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities.

## §§ 1807.131–1807.139 [Reserved]

### § 1807.140 Employment.

No qualified individual with disabilities shall, solely on the basis of disability, be subjected to discrimination in employment under any program or activity conducted by the NACIC. The definitions, requirements, and procedures of section 501 of the Rehabilitation Act of 1979 (29 U.S.C. 791), as established by the Equal Employment Opportunity Commission in 29 CFR part 1614, shall apply to employment in federally conducted programs or activities.

## §§ 1807.141–1807.148 [Reserved]

### § 1807.149 Program accessibility: discrimination prohibited.

Except as otherwise provided in § 1807.150, no qualified individual with

## 32 CFR Ch. XVIII (7–1–08 Edition)

disabilities shall, because the NACIC's facilities are inaccessible to or unusable by individuals with disabilities, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity conducted by the NACIC.

### § 1807.150 Program accessibility: existing facilities.

(a) *General.* The NACIC shall operate each program or activity so that the program or activity, viewed in its entirety, is readily accessible to and usable by individuals with disabilities. This program does not:

(1) Necessarily require the NACIC to make each of its existing facilities accessible to and usable by individuals with disabilities;

(2)(i) Require the NACIC to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens.

(ii) The NACIC has the burden of proving that compliance with § 1807.150(a) would result in that alteration or those burdens.

(iii) The decision that compliance would result in that alteration of those burdens must be made by the Director after considering all of the NACIC's resources available for use in the funding and operation of the conducted program or activity, and must be accompanied by a written statement of the reasons for reaching that conclusion.

(iv) If an action would result in that alteration or those burdens, the NACIC shall take any other action that would not result in the alteration of burdens but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity.

(b) *Methods.* (1) The NACIC may comply with the requirements of this section through such means as redesign of equipment, delivery of services at alternate accessible sites, alteration of existing facilities, or any other methods that result in making its programs or activities readily accessible to and usable by individuals with disabilities.

## National Counterintelligence Center

## § 1807.170

(2) The NACIC is not required to make structural changes in existing facilities if other methods are effective in achieving compliance with this section.

(3) In choosing among available methods for meeting the requirements of this section, the NACIC shall give priority to those methods that offer programs and activities to qualified individuals with disabilities in the most integrated setting appropriate.

### **§ 1807.151 Program accessibility: new construction and alterations.**

Each building or part of a building that is constructed or altered by, on behalf of, or for the use of, the NACIC shall be designed, constructed, or altered so as to be readily accessible to and usable by individuals with disabilities in compliance with the definitions, requirements, and standards of the Americans with Disabilities Act Accessibility Guidelines, 36 CFR part 1191.

### **§§ 1807.152–1807.159 [Reserved]**

### **§ 1807.160 Communications.**

(a) The NACIC shall take appropriate steps to ensure effective communication with applicants, participants, personnel of other Federal entities, and members of the public as follows:

(1)(i) The NACIC shall furnish appropriate auxiliary aids if necessary to afford an individual with disabilities an equal opportunity to participate in, and enjoy the benefits of, a program or activity conducted by the NACIC.

(ii) In determining what type of auxiliary aid is necessary, the NACIC shall give primary consideration to the requests of the individual with disabilities.

(2) Where the NACIC communicates with applicants and beneficiaries by telephone, telecommunication devices for deaf persons (TDD's) or equally effective telecommunication systems shall be used to communicate with persons with impaired hearing.

(b) The NACIC shall ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of accessible services, activities, and facilities.

(c) This section does not require the NACIC to take any action that it can demonstrate would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. In those circumstances where NACIC personnel believe that the proposed action would fundamentally alter the program or activity or would result in undue financial and administrative burdens, the NACIC has the burden of proving that compliance with § 1807.160 would result in such alteration or burdens. The decision that compliance would result in such alteration or burdens must be made by the NACIC head or his or her designee after considering all NACIC resources available for use in the funding and operation of the conducted program or activity and must be accompanied by a written statement of the reasons for reaching that conclusion. If an action required to comply with this section would result in such an alteration or such burdens, the NACIC shall take any other action that would not result in such an alteration or such burdens but would nevertheless ensure that, to the maximum extent possible, individuals with disabilities receive the benefits and services of the program or activity.

### **§§ 1807.161–1807.169 [Reserved]**

### **§ 1807.170 Compliance procedures.**

(a) Except as provided in paragraph (b) of this section, this section applies to all allegations of discrimination on the basis of disability in programs and activities conducted by the NACIC.

(b) The NACIC shall process complaints alleging violations of section 504 with respect to employment according to the procedures established by the Equal Employment Opportunity Commission in 29 CFR part 1614 pursuant to section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791).

(c) The Director, Office of Equal Employment Opportunity, is responsible for coordinating implementation of this section. Complaints may be sent to NACIC, Director, Washington, DC 20505.

(d) The NACIC shall accept and investigate all complete complaints for which it has jurisdiction. All complete